

PATENT COOPERATION TREATY

PCT

10/535489

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

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Applicant's or agent's file reference F 7678 (V)	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/EP 03/12031	International filing date (day/month/year) 29.10.2003	Priority date (day/month/year) 18.11.2002
International Patent Classification (IPC) or both national classification and IPC A23D7/00		
Applicant UNILEVER N.V. et al.		

- This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 5 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

 These annexes consist of a total of 4 sheets.

- This report contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 22.03.2004	Date of completion of this report 10.08.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Georgopoulos, N Telephone No. +49 89 2399-2634 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/EP 03/12031**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17):*

Description, Pages

1, 2, 4-7 as originally filed
3, 3a filed with telefax on 29.07.2004

Claims, Numbers

1-12 filed with telefax on 29.07.2004

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

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**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	8, 11, 12
	No: Claims	1-7, 9, 10
Inventive step (IS)	Yes: Claims	
	No: Claims	1-12
Industrial applicability (IA)	Yes: Claims	1-12
	No: Claims	

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/EP03/12031

Item I

- 1 The amendments filed with the telefax dated 29.07.04 meet the requirements of Art.34 (2) (b) PCT.

Item V

- 2 Reference is made to the following documents:

D1: US-A-5 718 938

D2: WO-A 94 16572

- 3 The subject-matter of present independent claim 1 as well as that of present dependent claims 2-7 and 9-10, is not novel (Art.33 (2) PCT).

- 3.1 D1 discloses (see column 1, lines 15-28; examples and claims 1, 3, 4, 7, 9 and 10 thereof) a bakery dough or batter comprising 5-80% triglycerides, 0-50% water, 0-4% salt, wherein the triglycerides have $S_2U = 5-50\%$ and $S_3 = 0-37\%$ ($S =$ saturated fatty acid residues having 12-24 C atoms and $U =$ monois fatty acid residues having at least 18 C atoms).

The applicant is of the opinion (see telefax dated 29.07.04) that said document does not disclose a "savory food composition": however, the term "savory food composition" has no established meaning for the person skilled in the art and therefore also encompasses the compositions according to D1.

Furthermore, the applicant states (see also the aforementioned telefax) that the formulations of D1 "do not contain 0.1-50% wt of herbs and/or spices and/or tomato powder and/or vegetable pieces and/or monosodium glutamate": this is, however, not the case either, as salt (contained in an amount of 0-4%) falls under the (large) category of spices.

Thus, D1 anticipates the subject-matter of present claims 1-7 and 9-10.

On the contrary, D2 does not anticipate the subject-matter of present independent claim 1: said document discloses a puff-pastry margarine with a fat content of at least 60 wt%, wherein said fat comprises $H_3 = 3-30\text{ wt}\%$ and $H_2U = 25-60\text{ wt}\%$ (see page 4, lines 30-37; claims 1, 4 and 8 of D2). Salt and water concentrations falling within the ranges of present independent claim 1, are not disclosed in said document.

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- 4 It appears that present dependent claims 8, 11 and 12 do not contain technical features that would establish novelty and / or inventive step (Art.33 (3) PCT) for the subject-matter of present independent claim 1, as they represent trivial design possibilities, obvious to the person skilled in the art.
- 5 The subject-matter of present claims 1-12 is susceptible of industrial application in the field of food industry (Art.33 (4) PCT).
- 6 According to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1 and D2 has been mentioned in the present description (see page 3 thereof).

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